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9
10 **BEFORE THE**
11 **CALIFORNIA BOARD OF ACCOUNTANCY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. AC-2008-4

14 BERDJ JOSEPH RASSAM
7045 Charmant Drive, #120
15 San Diego, CA 92122-4341

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

16 CPA Certificate No. 63050

17 Respondent.

18
19 FINDINGS OF FACT

20 1. On or about December 18, 2007, Complainant Carol Sigmann, in her
21 official capacity as the Executive Officer of the California Board of Accountancy, Department of
22 Consumer Affairs, filed Accusation No. AC-2008-4 against Berdj Joseph Rassam (Respondent)
23 before the California Board of Accountancy.

24 2. On or about November 13, 1992, the California Board of Accountancy
25 (Board) issued CPA Certificate No. 63050 to Respondent. The Certificate expired on
26 September 1, 2004, and has not been renewed.

27 3. On or about December 28, 2007, Denise Hosman, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of Accusation No.

1 AC-2008-4, Statement to Respondent, Notice of Defense, Request for Discovery, and
2 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
3 with the Board, which was and is 7045 Charmant Drive, #120, San Diego, CA 92122-4341. A
4 copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

5 4. Service of the Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c).

7 5. On or about January 11, 2008, the aforementioned documents were
8 returned by the U.S. Postal Service marked "Undeliverable as Addressed."

9 6. Business and Professions Code section 118 states, in pertinent part:

10 (b) The suspension, expiration, or forfeiture by operation of law of a
11 license issued by a board in the department, or its suspension, forfeiture, or
12 cancellation by order of the board or by order of a court of law, or its surrender
13 without the written consent of the board, shall not, during any period in which it
14 may be renewed, restored, reissued, or reinstated, deprive the board of its
authority to institute or continue a disciplinary proceeding against the licensee
upon any ground provided by law or to enter an order suspending or revoking the
license or otherwise taking disciplinary action against the license on any such
ground.

15 7. Government Code section 11506 states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the
17 respondent files a notice of defense, and the notice shall be deemed a specific
18 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

19 8. Respondent failed to file a Notice of Defense within 15 days after service
20 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
21 Accusation No. AC-2008-4.

22 9. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at
24 the hearing, the agency may take action based upon the respondent's express
admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent.

25
26 10. Pursuant to its authority under Government Code section 11520, the Board
27 finds Respondent is in default. The Board will take action without further hearing and, based on

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Respondent's express admissions by way of default and the evidence before it, contained in Exhibit A, finds that the allegations in Accusation No. AC-2008-4 are true.

11. The total costs for investigation and enforcement are \$5,054.28 as of January 18, 2008.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Berdj Joseph Rassam has subjected his CPA Certificate No. 63050 to discipline.

2. A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The California Board of Accountancy is authorized to revoke Respondent's CPA Certificate based upon the following violations alleged in the Accusation:

a. Respondent has subjected his license to disciplinary action for unprofessional conduct under Code sections 5100(a) and 490 in that he was convicted of a crime. On February 27, 2007, Respondent pled guilty to violating 15 U.S.C. sections 78j(b) and 78ff, and Title 17 Code of Federal Regulations, section 240.10b-5, Securities Fraud, a felony, in the criminal proceeding entitled *United States of America v. Berdj Joseph Rassam*, in the United States District Court, Southern District of California, Case Number 04CR2605W.

1. The circumstances of the crime are that Respondent was a Certified Public Accountant who was the Vice President of Finance and Chief Accountant at the business software company of Peregrine Systems, Inc. Respondent along with others, participated in a scheme to fraudulently manipulate Peregrine's publicly-filed financial reports in order to inflate and sustain the share price of Peregrine stock. Respondent and others would inflate Peregrine's reported software license revenues and omit to state material information about revenues. In connection with his guilty plea, Respondent admitted that he participated in the scheme by, among other things, falsely characterizing write-offs of Peregrine's uncollectible accounts receivable as unrelated acquisition costs. Respondent

1 admitted that he did this in order to conceal the amount and extent of Peregrine's
2 uncollectible receivables, and to mislead securities analysts and the investing
3 public as to Peregrine's true financial condition.

4 b. Respondent has subjected his license to disciplinary action for
5 unprofessional conduct under Code section 5100(c) in that he engaged in acts of
6 dishonesty when he participated in a scheme to fraudulently manipulate Peregrine's
7 publicly-filed financial reports in order to inflate and sustain the share price of Peregrine
8 stock.

9 c. Respondent has subjected his license to disciplinary action for
10 unprofessional conduct under Code section 5100(i) in that he engaged in acts of fiscal
11 dishonesty when he participated in a scheme to fraudulently manipulate Peregrine's
12 publicly-filed financial reports in order to inflate and sustain the share price of Peregrine
13 stock.

14 d. Respondent has subjected his license to disciplinary action for
15 unprofessional conduct under Code section 5100(j) in that he knowingly prepared,
16 published, or disseminated false, fraudulent, or materially misleading financial
17 statements, reports or information.

18 e. Respondent has subjected his license to disciplinary action for
19 unprofessional conduct under Code section 5063(a)(1) in that he failed to report to the
20 Board that he was convicted of a felony for Securities Fraud as set forth in paragraph 4(a)
21 above, which is incorporated herein as though fully set forth. To date, the Board has not
22 received any notification from Respondent of this reportable event.

23 ORDER

24 IT IS SO ORDERED that CPA Certificate No. 63050, heretofore issued to
25 Respondent Berdj Joseph Rassam, is revoked.

26 Pursuant to Government Code section 11520, subdivision (c), Respondent may
27 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
28 within seven (7) days after service of the Decision on Respondent. The agency in its discretion

1 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
2 statute.

3 This Decision shall become effective on April 28, 2008.

4 It is so ORDERED March 28, 2008

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6 
7 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY

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15 80198424.wpd
16 DOJ docket number:SD2007802201

17 Attachment:

18 Exhibit A: Accusation No. AC-2008-4
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Exhibit A

Accusation No. AC-2008-4

1 EDMUND G. BROWN JR., Attorney General
of the State of California

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10 **BEFORE THE**
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13 In the Matter of the Accusation Against:

Case No. AC-2008-4

14 BERDJ JOSEPH RASSAM
7045 Charmant Drive, #120
15 San Diego, CA 92122-4341

A C C U S A T I O N

16 CPA Certificate No. 63050

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

21 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the California Board of Accountancy, Department of
23 Consumer Affairs.

24 2. On or about November 13, 1992, the California Board of Accountancy
25 issued CPA Certificate Number 63050 to BERDJ JOSEPH RASSAM (Respondent).

26 The CPA Certificate was renewed on September 1, 1994, effective through August 31,
27 1996.

28 ///

1 The CPA Certificate was renewed on September 1, 1996, effective through August 31,
2 1998.

3 The CPA Certificate expired and was not valid from September 1, 1998, through
4 December 27, 1998, for failure to pay the renewal fee and failure to file the required declaration
5 of compliance with continuing education requirements.

6 The CPA Certificate was renewed on December 28, 1998, effective through August 31,
7 2000.

8 The CPA Certificate was renewed on September 1, 2000, effective through August 31,
9 2002.

10 The CPA Certificate was renewed on September 1, 2002, effective through August 31,
11 2004, without continuing education (inactive).

12 The CPA Certificate expired on September 1, 2004 and is currently in a delinquent status.

13 JURISDICTION

14 3. This Accusation is brought before the California Board of Accountancy
15 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
16 references are to the Business and Professions Code unless otherwise indicated.

17 4. Section 490 of the Code states:

18 A board may suspend or revoke a license on the ground that the
19 licensee has been convicted of a crime, if the crime is substantially related to the
20 qualifications, functions, or duties of the business or profession for which the
21 license was issued. A conviction within the meaning of this section means a plea
22 or verdict of guilty or a conviction following a plea of nolo contendere. Any
23 action which a board is permitted to take following the establishment of a
24 conviction may be taken when the time for appeal has elapsed, or the judgment of
25 conviction has been affirmed on appeal, or when an order granting probation is
26 made suspending the imposition of sentence, irrespective of a subsequent order
27 under the provisions of Section 1203.4 of the Penal Code.

24 5. Section 5063 states:

25 (a) A licensee shall report to the board in writing of the occurrence of any
26 of the following events occurring on or after January 1, 1997, within 30 days of
the date the licensee has knowledge of these events;

27 (1) The conviction of the licensee of any of the following:

28 (A) A felony.

1 (B) Any crime related to the qualifications, functions, or duties of a public
2 accountant or certified public accountant, or to acts or activities in the course and
scope of the practice of public accountancy.

3 (C) Any crime involving theft, embezzlement, misappropriation of funds
4 or property, breach of a fiduciary responsibility, or the preparation, publication, or
5 dissemination of false, fraudulent, or materially misleading financial statements,
reports, or information.

6 6. Section 5100 states:

7 After notice and hearing the board may revoke, suspend, or refuse to
8 renew any permit or certificate granted under Article 4 (commencing with Section
5070) and Article 5 (commencing with Section 5080), or may censure the holder
9 of that permit or certificate for unprofessional conduct that includes, but is not
limited to, one or any combination of the following causes:

10 (a) Conviction of any crime substantially related to the qualifications,
11 functions and duties of a certified public accountant or a public accountant.

12 . . .

13 (c) Dishonesty, fraud, gross negligence, or repeated negligent acts
14 committed in the same or different engagements, for the same or different clients,
or any combination of engagements or clients, each resulting in a violation of
15 applicable professional standards that indicate a lack of competency in the
practice of public accountancy or in the performance of the bookkeeping
operations described in Section 5052.

16 . . .

17 (i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

18 (j) Knowing preparation, publication, or dissemination of false, fraudulent,
19 or materially misleading financial statements, reports, or information.

20 7. Section 5106 states:

21 A plea or verdict of guilty or a conviction following a plea of nolo
22 contendere is deemed to be a conviction within the meaning of this article. The
record of the conviction shall be conclusive evidence thereof. The board may
23 order the certificate or permit suspended or revoked, or may decline to issue a
certificate or permit, when the time for appeal has elapsed, or the judgment of
24 conviction has been affirmed on appeal or when an order granting probation is
made, suspending the imposition of sentence, irrespective of a subsequent order
25 under the provisions of Section 1203.4 of the Penal Code allowing such person to
withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the
26 verdict of guilty or dismissing the accusation, information or indictment.

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8. Section 5107, subdivision (a), states, in pertinent part:

The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations if this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.

9. Section 5109 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a license, practice, privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to Accountancy Work)

10. Respondent has subjected his license to disciplinary action for unprofessional conduct under Code sections 5100(a) and 490 in that he was convicted of a crime.

The circumstances are as follows:

a. On February 27, 2007, Respondent pled guilty to violating 15 U.S.C. sections 78j(b) and 78ff, and Title 17 Code of Federal Regulations, section 240.10b-5, Securities Fraud, a felony, in the criminal proceeding entitled *United States of America v. Berdj Joseph Rassam*, in the United States District Court, Southern District of California, Case Number 04CR2605W.

b. The circumstances of the crime are that Respondent was a Certified Public Accountant who was the Vice President of Finance and Chief Accountant at the business software company of Peregrine Systems, Inc. Respondent along with others, participated in a scheme to fraudulently manipulate Peregrine's publicly-filed financial reports in order to inflate and sustain the share price of Peregrine stock. Respondent and others would inflate Peregrine's reported software license revenues and omit to state material information about revenues. In connection with his guilty plea, Respondent admitted that he participated in the scheme by, among other things, falsely characterizing write-offs of Peregrine's uncollectible accounts receivable as unrelated acquisition costs.

1 Respondent admitted that he did this in order to conceal the amount and extent of
2 Peregrine's uncollectible receivables, and to mislead securities analysts and the investing
3 public as to Peregrine's true financial condition.

4 SECOND CAUSE FOR DISCIPLINE

5 (Dishonesty)

6 11. Respondent has subjected his license to disciplinary action for
7 unprofessional conduct under Code section 5100(c) in that he engaged in acts of dishonesty when
8 he participated in a scheme to fraudulently manipulate Peregrine's publicly-filed financial reports
9 in order to inflate and sustain the share price of Peregrine stock. The circumstances are set forth
10 in paragraph 10 above, which is incorporated herein as though fully set forth.

11 THIRD CAUSE FOR DISCIPLINE

12 (Fiscal Dishonesty)

13 12. Respondent has subjected his license to disciplinary action for
14 unprofessional conduct under Code section 5100(i) in that he engaged in acts of fiscal dishonesty
15 when he participated in a scheme to fraudulently manipulate Peregrine's publicly-filed financial
16 reports in order to inflate and sustain the share price of Peregrine stock. The circumstances are
17 set forth in paragraph 10 above, which is incorporated herein as though fully set forth.

18 FOURTH CAUSE FOR DISCIPLINE

19 (The Knowing Preparation of False or Misleading Financial Statements, Reports or Information)

20 13. Respondent has subjected his license to disciplinary action for
21 unprofessional conduct under Code section 5100(j) in that he knowingly prepared, published, or
22 disseminated false, fraudulent, or materially misleading financial statements, reports or
23 information. The circumstances are set forth in paragraph 10 above, which is incorporated herein
24 as though fully set forth.

25 FIFTH CAUSE FOR DISCIPLINE

26 (Reportable Events)

27 14. Respondent has subjected his license to disciplinary action for
28 unprofessional conduct under Code section 5063(a)(1) in that he failed to report to the Board that

1 he was convicted of a felony for Securities Fraud as set forth in paragraph 10 above, which is
2 incorporated herein as though fully set forth. To date, the Board has not received any notification
3 from Respondent of this reportable event.

4 PRAYER

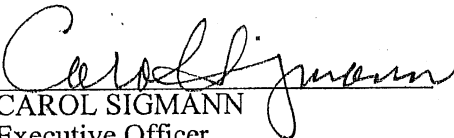
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein
6 alleged and that following the hearing, the California Board of Accountancy issue a decision:

7 1. Revoking, suspending or otherwise imposing discipline upon Certified
8 Public Accountant Certificate Number 63050 issued to BERDJ JOSEPH RASSAM;

9 2. Ordering BERDJ JOSEPH RASSAM to pay the California Board of
10 Accountancy the reasonable costs of the investigation and enforcement of this case pursuant to
11 Business and Professions Code section 5107; and

12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: December 18, 2007

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15 
16 CAROL SIGMANN
17 Executive Officer
18 California Board of Accountancy
19 Department of Consumer Affairs
20 State of California
21 Complainant

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